

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINARECEIVED
U.S. DISTRICT COURT
CHARLESTON, SC
2015 MAY 14 P 3:29

Kelvin Sharod Addison, #309917,)
)
Plaintiff,)
) Civil Action No. 1:15-593-SB
v.)
)
Bryan P. Stirling,)
)
Defendant.)

)

ORDER

This matter is before the Court upon the Plaintiff's pro se complaint filed pursuant to 42 U.S.C. § 1983. In accordance with Local Civil Rule 73.2(B)(2)(d) for the District of South Carolina and 28 U.S.C. § 636(b)(1)(A), the matter was referred to a United States Magistrate Judge for preliminary determinations. On February 20, 2015, Magistrate Judge Shiva V. Hodges issued a report and recommendation ("R&R") outlining the issues and recommending that the Court dismiss this case without prejudice and without issuance and service of process, as the Eleventh Amendment protects Defendant Bryan P. Stirling, who is the director of the South Carolina Department of Corrections, from being sued in his official capacity.

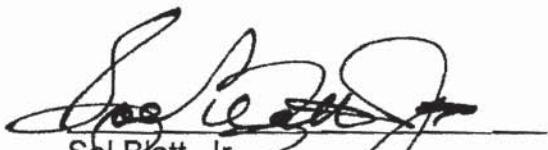

The Plaintiff filed written objections to the R&R on March 2, 2015. In his objections, however, the Plaintiff merely rehashes his claims, and he does not point to any factual or legal error in the R&R. As the Magistrate Judge noted, the Eleventh Amendment prohibits federal courts from entertaining an action against a state. See Alabama v. Pugh, 438 U.S. 781, 782 (1978) (per curiam) (citations omitted). Further, Eleventh Amendment immunity "extends to 'arm[s] of the State,' including state agencies and state officers acting in their official capacity." Cromer v. Brown, 88 F.3d 1315, 1332 (4th Cir.1996) (alteration in

original) (internal citations omitted). Thus, to the extent the Plaintiff has sued Defendant Stirling in his official capacity, the Court agrees with the Magistrate Judge that he is entitled to summary dismissal.

Accordingly, it is hereby

ORDERED that the R&R (Entry 10) is adopted and incorporated; the Plaintiff's objections (Entry 12) are overruled; and this case is dismissed without prejudice and without issuance and service of process.

AND IT IS SO ORDERED.



Sol Blatt, Jr
Senior United States District Judge

May 14, 2015
Charleston, South Carolina

